



E-554-1

UNITED STATES DEPARTMENT OF COMMERCE
Bureau of Export Administration
Washington, D.C. 20230

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Dell Computer Corporation
9505 Arboretum Boulevard
Austin, Texas 78759

Attention: Mr. Richard Salwen
Vice President

Dear Mr. Salwen:

The Office of Export Enforcement, Bureau of Export Administration, United States Department of Commerce (BXA), hereby charges that Dell Computer Corporation (Dell) has violated Sections 787.5(a)(1) and 787.6 of the Export Administration Regulations (currently codified at 15 C.F.R. Parts 768-799 (1996), as amended (61 Fed. Reg. 12714, March 25, 1996))¹ (the Regulations),² issued pursuant to the Export Administration Act of 1979, as amended (50 U.S.C.A. app. §§ 2401-2420 (1991 & Supp. 1996)) (the Act),³ as set forth below.

Facts constituting violations:

CHARGES 1-3

As is described in greater detail in Schedule A, which is attached hereto and incorporated herein by reference, on three separate occasions between on or about March 27, 1992 and on or about June 16, 1992, Dell exported U.S.-origin computer equipment from the United States to Iran without obtaining from BXA the

¹ The March 25, 1996 Federal Register publication redesignated, but did not republish, the existing Regulations as 15 C.F.R. Parts 768A-799A. In addition, the March 25 Federal Register publication restructured and reorganized the Regulations, designating them as an interim rule at 15 C.F.R. Parts 730-774, effective April 24, 1996.

² The Regulations governing the violations at issue are found in the 1992 version of the Code of Federal Regulations. Those Regulations are codified at 15 C.F.R. Parts 768-799 (1992).

³ The Act expired on August 20, 1994. Executive Order 12924 (3 C.F.R., 1994 Comp. 917 (1995)), extended by Presidential Notices of August 15, 1995 (3 C.F.R., 1995 Comp. 501 (1996)) and August 14, 1996 (61 Fed. Reg. 42527, August 15, 1996), continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C.A. §§ 1701-1706 (1991 & Supp. 1996)).



validated export licenses required by Section 772.1 of the Regulations. BXA alleges that, by exporting U.S.-origin computer equipment to any person or destination or for any use in violation of or contrary to the terms of the Act, or any regulation, order, or license issued thereunder, Dell violated Section 787.6 of the Regulations.

CHARGES 4-6

In connection with each of the exports described in the attached Schedule A, Dell used a Shipper's Export Declaration, an export control document as defined in 770.2 of the Regulations, on which it was represented that the commodities described thereon, computer equipment, qualified for export from the United States to Iran under general license G-DEST. In fact, the computer equipment required a validated license for export from the United States to Iran. BXA alleges that, by making a false or misleading misrepresentation, statement, or certification of a material fact, directly or indirectly, to a United States agency in connection with the preparation, submission, issuance, use, or maintenance of an export control document, Dell violated Section 787.5(a)(1) of the Regulations.

BXA alleges that Dell committed three violations of Section 787.5(a)(1) and three violations of Section 787.6, for a total of six violations of the Regulations.

Accordingly, Dell is hereby notified that an administrative proceeding is instituted against it pursuant to Section 13(c) of the Act and Part 766 of the Regulations for the purpose of obtaining an Order imposing administrative sanctions, including any or all of the following:

Denial of export privileges (see Section 764.3(a)(2), Section 788A.3(a)(1), and Section 788A.3(a)(2) of the Regulations);

Exclusion from practice (see Section 764.3(a)(3) and Section 788A.3(a)(3) of the Regulations); and/or

The maximum civil penalty of \$10,000 per violation (see Section 764.3(a)(1) and Section 788A.3(a)(4) of the Regulations).⁴

A copy of relevant Parts of the Regulations is enclosed.

⁴ The maximum civil penalty for any violation committed after October 23, 1996 is \$11,000. 61 Fed. Reg. 55092 (October 24, 1996) (to be codified at 15 C.F.R. § 6.4(a)(3)).

If Dell fails to answer the charges contained in this letter within 30 days after being served with notice of issuance of this letter as provided in Section 766.6 of the Regulations, that failure will be treated as a default under Section 766.7.

Dell is further notified that it is entitled to an agency hearing on the record as provided by Section 13(c) of the Act and Section 766.6 of the Regulations, if a written demand for one is filed with its answer, to be represented by counsel, and to seek a settlement agreement.

Dell's answer should be filed with the Office of the Administrative Law Judge/Export Control, U.S. Department of Commerce, Room H-6839, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230, in accordance with the instructions in Section 766.5 of the Regulations. In addition, a copy of Dell's answer should be served on BXA at the address set forth in Section 766.5, adding "ATTENTION: Lairold M. Street, Esq." below the address. Mr. Street may be contacted by telephone at (202) 482-5311.

Sincerely,

Mark D. Menefee
Acting Director
Office of Export Enforcement

Enclosures

E-554-4

DELL COMPUTER CORPORATION

SCHEDULE OF VIOLATIONS

CHARGE NUMBER	DATE OF EXPORT FROM UNITED STATES (on or about)	COMMODITY	SHIPPER'S EXPORT DECLARATION FILED	AIR WAYBILL NUMBER	INVOICE NUMBER	DESTINATION
1, 4	03/27/92	Computer Equipment	YES	29882	12790192	Iran
2, 5	04/04/92	Computer Equipment	YES	41953	13525191	Iran
3, 6	06/16/92	Computer Equipment	YES	33821	14273809	Iran

UNITED STATES DEPARTMENT OF COMMERCE
BUREAU OF EXPORT ADMINISTRATION
WASHINGTON, D.C. 20230

In the Matter of:

DELL COMPUTER CORPORATION
9505 Arboretum Boulevard
Austin, Texas 78759,

Respondent

SETTLEMENT AGREEMENT

This Agreement is made by and between Dell Computer Corporation (Dell) and the Bureau of Export Administration, United States Department of Commerce, pursuant to Section 766.18(a) of the Export Administration Regulations (61 Fed. Reg. 12734-13041, March 25, 1996, to be codified at 15 C.F.R. Parts 730-774) (the Regulations),¹ issued pursuant to the Export Administration Act of 1979, as amended (50 U.S.C.A. app. §§ 2401-2420 (1991 & Supp. 1996)) (the Act).²

¹ The alleged violations occurred in 1992. The Regulations governing the violations at issue are found in the 1992 version of the Code of Federal Regulations (15 C.F.R. Parts 768-799 (1992)). Those Regulations define the conduct that BXA alleges was violated and are referred to hereinafter as the former Regulations. Since that time, the Regulations have been reorganized and restructured; the restructured Regulations, to be codified at 15 C.F.R. Parts 730-774, establish the procedures that apply to the matters set forth in this Settlement Agreement.

² The Act expired on August 20, 1994. Executive Order 12924 (3 C.F.R., 1994 Comp. 917 (1995)), extended by Presidential Notices of August 15, 1995 (3 C.F.R., 1995 Comp. 501 (1996)) and August 14, 1996 (61 Fed. Reg. 42527, August 15, 1996), continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C.A. §§ 1701-1706 (1991 & Supp. 1996)).

Whereas, the Office of Export Enforcement, Bureau of Export Administration, United States Department of Commerce (BXA), has notified Dell of its intention to initiate an administrative proceeding against it pursuant to the Act and the Regulations, based on allegations that:

1. On three separate occasions between on or about March 27, 1992 and on or about June 16, 1992, Dell exported U.S.-origin computer equipment from the United States to Iran without obtaining from BXA the validated export licenses required by Section 772.1(b) of the former Regulations, in violation of Section 787.6 of the former Regulations; and

2. In connection with each of the exports identified above, Dell made false or misleading representations of material fact to a United States agency on an export control document, in violation of Section 787.5(a)(1) of the former Regulations;

Whereas, Dell has reviewed the proposed Charging Letter and is aware of the allegations made against it and the administrative sanctions which could be imposed against it if the allegations are found to be true; it fully understands the terms of this Settlement Agreement and the proposed Order; it enters into this Settlement Agreement voluntarily and with full knowledge of its rights, and it states that no promises or representations have been made to it other than the agreements and considerations herein expressed;

Whereas, Dell neither admits nor denies the allegations contained in the proposed Charging Letter;

Whereas, Dell wishes to settle and dispose of all matters alleged in the proposed Charging Letter by entering into this Settlement Agreement; and

Whereas, Dell agrees to be bound by an appropriate Order giving effect to the terms of this Settlement Agreement, when entered (appropriate Order);

Now Therefore, Dell and BXA agree as follows:

1. BXA has jurisdiction over Dell, under the Act and the Regulations, in connection with the matters alleged in the proposed Charging Letter.

2. BXA and Dell agree that the following sanction shall be imposed against Dell in complete settlement of all violations of the Act and the Regulations set forth in the proposed Charging Letter:

- a. Dell shall be assessed a civil penalty of \$50,000 which shall be paid within 30 days from the date of entry of an appropriate Order.
- b. As authorized by Section 11(d) of the Act, the timely payment of the penalty agreed to in paragraph 2a. is hereby made a condition to the granting, restoring, or continuing validity of any export license, permission, or privileges granted, or to be granted, to Dell. Failure to make timely payment of the civil penalty shall result in the denial of all of Dell's export privileges for a period of one year from the date of

entry of the appropriate Order imposing the civil penalty.

3. Dell agrees that, subject to the approval of this Settlement Agreement pursuant to paragraph 8 hereof, it hereby waives all rights to further procedural steps in this matter (except with respect to any alleged violations of this Settlement Agreement or the appropriate Order, when entered), including, without limitation, any right: (a) to an administrative hearing regarding the allegations in the proposed Charging Letter; (b) to request a refund of the civil penalty imposed pursuant to this Settlement Agreement and the appropriate Order, when entered; and (c) to seek judicial review or otherwise to contest the validity of this Settlement Agreement or the appropriate Order, when entered.

4. BXA agrees that, upon entry of an appropriate Order, it will not initiate any administrative proceeding against Dell in connection with any violation of the Act or the Regulations alleged in the proposed Charging Letter.

5. Dell understands that BXA will make the proposed Charging Letter, this Settlement Agreement, and the appropriate Order, when entered, available to the public.

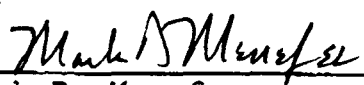
6. BXA and Dell agree that this Settlement Agreement is for settlement purposes only. Therefore, if this Settlement Agreement is not accepted and an appropriate Order is not issued by the Assistant Secretary for Export Enforcement pursuant to Section 766.18(a) of the Regulations, BXA and Dell agree that

they may not use this Settlement Agreement in any administrative or judicial proceeding and that neither party shall be bound by the terms contained in this Settlement Agreement in any subsequent administrative or judicial proceeding.

7. No agreement, understanding, representation or interpretation not contained in this Settlement Agreement may be used to vary or otherwise affect the terms of this Settlement Agreement or the appropriate Order, when entered, nor shall this Settlement Agreement serve to bind, constrain, or otherwise limit any action by any other agency or department of the United States Government with respect to the facts and circumstances addressed herein.

8. This Settlement Agreement shall become binding on BXA only when the Assistant Secretary for Export Enforcement approves it by entering an appropriate Order, which will have the same force and effect as a decision and order issued after a full administrative hearing on the record.

BUREAU OF EXPORT ADMINISTRATION
U.S. DEPARTMENT OF COMMERCE



Mark D. Menefee
Acting Director
Office of Export Enforcement

DELL COMPUTER CORPORATION



Mr. Richard Salwen
Vice President

Date: 5/22/97

Date: 5/21/97

UNITED STATES DEPARTMENT OF COMMERCE
BUREAU OF EXPORT ADMINISTRATION
WASHINGTON, D.C. 20230

In the Matter of:

DELL COMPUTER CORPORATION
9505 Arboretum Boulevard
Austin, Texas 78759,

Respondent

ORDER

The Office of Export Enforcement, Bureau of Export Administration, United States Department of Commerce (BXA), having notified Dell Computer Corporation (Dell) of its intention to initiate an administrative proceeding against it pursuant to Section 13(c) of the Export Administration Act of 1979, as amended (50 U.S.C.A. app. §§ 2401-2420 (1991 & Supp. 1996)) (the Act),¹ and the Export Administration Regulations (61 Fed. Reg. 12734-13041, March 25, 1996, to be codified at 15 C.F.R. Parts 730-774) (the Regulations),² based on allegations that:

¹ The alleged violations occurred in 1992. The Regulations governing the violations at issue are found in the 1992 version of the Code of Federal Regulations (15 C.F.R. Parts 768-799 (1992)). Those Regulations define the conduct that BXA alleges was violated and are referred to hereinafter as the former Regulations. Since that time, the Regulations have been reorganized and restructured; the restructured Regulations, to be codified at 15 C.F.R. Parts 730-774, establish the procedures that apply to the matters set forth in this Order.

² The Act expired on August 20, 1994. Executive Order 12924 (3 C.F.R., 1994 Comp. 917 (1995)), extended by Presidential Notices of August 15, 1995 (3 C.F.R., 1995 Comp. 501 (1996)) and August 14, 1996 (61 Fed. Reg. 42527, August 15, 1996), continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C.A. §§ 1701-1706 (1991 & Supp. 1996)).

1. On three separate occasions between on or about March 27, 1992 and on or about June 16, 1992, Dell exported U.S.-origin computer equipment from the United States to Iran without obtaining from BXA the validated export licenses required by Section 772.1(b) of the former Regulations, in violation of Section 787.6 of the former Regulations;

2. In connection with each of the exports identified above, Dell made false or misleading representations of material fact to a United States agency on an export control document, in violation of Section 787.5(a)(1) of the former Regulations;

BXA and Dell having entered into a Settlement Agreement pursuant to Section 766.18(a) of the Regulations whereby they agreed to settle this matter in accordance with the terms and conditions set forth therein, and the terms of the Settlement Agreement having been approved by me;

IT IS THEREFORE ORDERED:

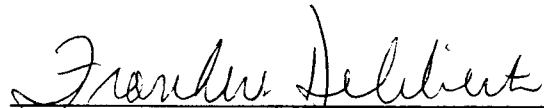
FIRST, that a civil penalty of \$50,000 is assessed against Dell, which shall be paid to the United States Department of Commerce within 30 days from the date of entry of this Order. Payment shall be made in the manner specified in the attached instructions.

SECOND, that, as authorized by Section 11(d) of the Act, the timely payment of the civil penalty set forth above is hereby made a condition to the granting, restoration, or continuing validity of any export license, permission, or privilege granted, or to be granted, to Dell. Accordingly, if Dell should fail to pay the

civil penalty set forth above in a timely manner, the undersigned will enter an Order under the authority of Section 11(d) of the Act denying all of Dell's export privileges for a period of one year from the date of entry of this Order.

THIRD, that the proposed Charging Letter, the Settlement Agreement, and this Order shall be made available to the public.

This Order, which constitutes the final agency action in this matter, is effective immediately.



Frank W. Deliberti
Acting Assistant Secretary
for Export Enforcement

Entered this 17th day of June, 1997.

UNITED STATES DEPARTMENT OF
COMMERCE
NEWS

WASHINGTON, D.C. 20230

E-554-13
BUREAU OF
EXPORT
ADMINISTRATION

FOR IMMEDIATE RELEASE:

June 17, 1997
www.bxa.doc.gov
BXA-97-19

CONTACTS: Susan Hofer
Eugene Cottilli
(202) 482-2721

**TEXAS MANUFACTURER AGREES TO \$50,000 CIVIL PENALTY
TO SETTLE ILLEGAL EXPORT CHARGES**

(WASHINGTON) The Commerce Department's Bureau of Export Administration today imposed a \$50,000 civil penalty on Dell Computer Corporation of Austin, Texas, for alleged violations of the Export Administration Regulations, Frank Deliberti, acting assistant secretary for Export Enforcement, announced.

The Department alleged that Dell made three shipments of U.S. origin computer equipment from the United States to Iran without the required U.S. export licenses between March, 1992 and June, 1992. In connection with the exports, the Department also alleged that the company made false and misleading statements of material fact on export control documents. The BXA's Export Enforcement Dallas Field Office investigated the case.

The U.S. government maintains a comprehensive economic sanctions program against the government of Iran, barring virtually all commercial transactions involving U.S.-origin goods, U.S. persons, or both. Iran, as well as Cuba, Iraq, Libya and North Korea are nations that have repeatedly provided support for acts of international terrorism.

The Department of Commerce controls and licenses the export and re-export of dual-use commodities and technical data. Under the authority of the International Emergency Economic Powers Act and the EAR, Commerce's Bureau of Export Administration maintains controls on these items for reasons of national security, foreign policy, non-proliferation and short supply.